

Calendar No. 1060

91ST CONGRESS }
2d Session }

SENATE

{ REPORT
No. 91-1055

ROBERT G. SMITH

JULY 30, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 3723]

The Committee on the Judiciary, to which was referred the bill (H.R. 3723) for the relief of Robert G. Smith, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay Robert G. Smith of Annandale, Va., \$1,440 in full settlement of his claims against the United States for compensation for work he performed for the Office of Economic Opportunity from June 7, 1965, through July 16, 1965.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee relates the facts of the case as follows:

The Office of Economic Opportunity in a report to the committee on the bill states that it would not impose an objection to the enactment of the bill. The report of the Office of Economic Opportunity states that Mr. Smith was offered employment by OEO on Friday, June 4, 1965, and was requested to commence work in the Job Corps program on the following Monday, June 7, 1965. This occurred during the early days of OEO's operations and at a time when several conservation centers were being opened almost simultaneously. Under these circumstances, it was imperative that various directives governing their operations be prepared immediately and be put into effect. In order that Mr. Smith's services could be utilized in this task, he was requested to

report for duty on the short notice mentioned above, with the understanding that his papers were being processed. Mr. Smith reported for work on June 7 and began his employment. Unfortunately, because of an administrative delay for which he was not at fault, he was not placed on the payroll until July 18, 1965.

The Office of Economic Opportunity has determined that Mr. Smith was apparently given no assurance that he would receive compensation for the period in which he worked prior to his official appointment. While the Director of OEO under the Economic Opportunity Act has the authority to accept voluntary uncompensated services there is no indication that Mr. Smith intended to serve as an unpaid volunteer for the period covered by this bill. In fact the OEO report states that the situation is apparently one in which Job Corps officials were concerned with the urgent necessities involved in getting a new program underway and this was their prime consideration in dealing with Mr. Smith rather than complying with the procedures and requirements of personnel administration in his case. The report also expressly notes that Mr. Smith, being more accustomed to the less formal hiring procedures of private industry, apparently relied on the fact that "a worker is worthy of his hire" and assumed that in some way he would be compensated for services he was rendering the Government. While, of course, the failure to comply with personnel procedures concerning official appointment to a position in the Government bar a determination that Mr. Smith is entitled to payment under the law, this does not bar recognition of a moral obligation by the Congress. This is recognized in the report of OEO which states that should the facts of this case be determined by the Congress to justify legislative relief, it would not interpose an objection to the enactment of the bill. This committee feels that the Government obviously has had the benefit of Mr. Smith's services and it is inequitable to deny him payment therefor. Accordingly it is recommended that the bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 3723.

Attached hereto and made a part hereof is a letter dated January 6, 1969, from the Office of Economic Opportunity:

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., January 6, 1969.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of September 19, 1968, requesting the views of the Office of Economic Opportunity on H.R. 19664, a bill for the relief of Robert G. Smith.

The proposed legislation would award a total of \$1,440 to Mr. Smith in settlement of his claim against the United States for compensation

for work he performed for the Office of Economic Opportunity from June 7, 1965, through July 16, 1965.

Mr. Smith was offered employment by OEO on Friday, June 4, 1965, and was requested to commence work in the Job Corps program on the following Monday, June 7, 1965. This occurred during the early days of OEO's operations and at a time when several conservation centers were being opened almost simultaneously. Under these circumstances, it was imperative that various directives governing their operations be prepared immediately and be put into effect. In order that Mr. Smith's services could be utilized in this task, he was requested to report for duty on the short notice mentioned above, with the understanding that his papers were being processed. Mr. Smith reported for work on June 7 and began his employment. Unfortunately, because of an administrative delay for which he was not at fault, he was not placed on the payroll until July 18, 1965.

Mr. Smith was apparently given no assurance (and none could lawfully be given to him by any OEO official) that he would receive compensation for the period in which he worked prior to official appointment. However, notwithstanding the fact that the Director of OEO, under the provisions of section 602(g) of the Economic Opportunity Act has authority to accept voluntary, uncompensated services, we do not suggest that Mr. Smith intended to serve as an unpaid volunteer during the period in question. The situation appears to have been one in which Job Corps officials, in dealing with Mr. Smith, were focusing more on the urgent necessities involved in getting a new program underway than the procedures and requirements of personnel administration. Mr. Smith, on the other hand, probably being more accustomed to the often less formal hiring procedures of private industry, apparently relied on the principle that a worker is worthy of his hire and believed that a way somehow would be worked out to compensate him for his services.

We do not believe that Mr. Smith is lawfully entitled to compensation for the period in which he worked prior to official appointment as an OEO employee. However, should the Congress find that, considering the facts heretofore stated, extenuating circumstances exist which would justify the payment of Mr. Smith's claim, we would interpose no objection to the enactment of H.R. 19664.

The Bureau of the Budget advises that there is no objection to the submission of this report to the Congress from the standpoint of the President's program.

Sincerely,

BERTRAND M. HARDING,
Acting Director.

○

